

REMARKS

Applicants' representatives wish to thank the Examiner for the careful consideration given this case. Previously withdrawn Claims 17-20 have been cancelled. Therefore, Claims 1, 4, 6-10, and 21-30 are presently pending. This response addresses those issues raised in Office Action dated September 22, 2003. In view of the following remarks, reconsideration of the claims is respectfully requested.

The Examiner rejects Claims 1, 4, 6-10, and 21-30 under 35 U.S.C. § 103(a) as being obvious over Myers et al. (U.S. Patent No. 6,376,472; the '472 patent) in view of Olsson et al. (U.S. Patent No. RE 37,045; the '045 patent). As argued in the Applicants' response to the previous Office Action, Myers et al. do not teach the presently-claimed limitation where R₁ and R₂ are an amine group or an alkyl amine group. The newly-cited '045 patent does not cure this deficiency of Myers et al. Applicants strongly submit that the obviousness rejection is untenable and should be withdrawn.

The Examiner asserts that Myers et al. teach a compound of the formula disclosed in the pending application where the ribose ring is a 2',3'-O-isopropylidene derivative. The Examiner notes that the variables A and B may be defined as OR' and OR" with the residues R' and R" being defined at Col. 8, lines 29-48 of the '472 patent. Upon consideration of this passage, it is clear that there is no specific disclosure or suggestion found in Myers et al. to A, B, R', or R" being an amine group or alkyl amine group. Indeed, the Examiner agrees when he states on Page 3 of the present Office Action that, "It is noted that Myers et al do not provide specific disclosures regarding the substitution of an isopropylidene ring with an

amine group or an alkyl amine group." The R' and R" groups of Myers et al. correspond to R₁ and R₂ in the structures claimed in the pending claims. In each of these claims, R₁ and R₂ are defined either generally as an amine group or an alkylamine group (Claims 1 and 23 and their dependent claims) or as a specific alkylamine residue (Claim 10 and its dependent claims). Myers et al. do not teach this claim limitation which is found in each and every presently-pending claim.

The Examiner's use of Olsson et al. does not cure this deficiency of the '472 patent. The residues R₂ and R₃ of Olsson et al. correspond to R₁ and R₂ of the pending claims. The Abstract of Olsson et al. provides a clear definition of R₂ and R₃ as hydrogen or pharmacologically-acceptable acyl groups. The '045 patent expands on this concept at Col. 4, lines 40-49:

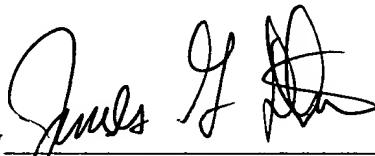
The substituent R₂ and R₃ groups in the compounds of the present invention, as shown in General Formula 3, are hydrogen, or pharmacologically acceptable organic acyl groups, or inorganic acid radicals, such as NO₂ groups, which esterify the hydroxyl groups of the ribofuranose moiety. The R₂ and R₃ groups are preferably of the type which are relatively readily hydrolyzed under physiological conditions. The R₂ and R₃ substituents need not be identical with one another.

It is abundantly clear from this passage and the '045 patent as a whole that Olsson et al. did not contemplate R₂ and R₃ as being amines or alkylamine groups.

Thus, neither the '472 patent, nor the '045 patent, nor their combination teach or fairly suggest the elements recited by the presently-claimed invention. As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be taught or suggested in the cited references. MPEP § 2143.01. It is submitted that the cited references do not satisfy this requirement in the claims as presently amended. Reconsideration and withdrawal of this rejection are respectfully requested.

In view of the remarks presented herein, it is respectfully submitted that the present application is in condition for final allowance and notice to such effect is requested. If the Examiner believes that additional issues need to be resolved before this application can be passed to issue, the undersigned invites the Examiner to contact him at the telephone number provided below.

Respectfully submitted,

By 

James G. Dilmore

Reg. No. 51,618

Frederick H. Colen
Reg. No. 28,061

REED SMITH LLP
P.O. Box 488
Pittsburgh, PA 15230-0488
(412) 288-3813

Agent for Applicant
Attorney for Applicant